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104TH CONGRESS
1ST SESSION**S. 597**

To insure the long-term viability of the medicare, medicaid, and other federal health programs by establishing a dedicated trust fund to reimburse the government for the health care costs of individuals with diseases attributable to the use of tobacco products.

IN THE SENATE OF THE UNITED STATES**MARCH 22** (legislative day, **MARCH 16**), 1995

Mr. LAUTENBERG (for himself, Mr. BRADLEY, and Mr. HARKIN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To insure the long-term viability of the medicare, medicaid, and other federal health programs by establishing a dedicated trust fund to reimburse the government for the health care costs of individuals with diseases attributable to the use of tobacco products.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “**Medicare/Medicaid Sol-**
5 **vency Act**”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) **FINDINGS.**—The Congress finds that—

1 (1) illnesses and diseases that result from the
2 use of tobacco products cost Federal Government
3 health care programs billions of dollars, including
4 \$10,200,000,000 in the medicare program,
5 \$5,100,000,000 in the medicaid program, and
6 \$4,700,000,000 in other Federal health programs in
7 fiscal year 1993;

8 (2) in April 1994, the trustees of the medicare
9 trust funds concluded that such funds may be insol-
10 vent in 2001;

11 (3) such insolvency would severely affect the
12 ability of the medicare trust funds to continue to
13 protect the health of America's senior citizens; and

14 (4) the medicare population has a significantly
15 higher risk of contracting illnesses and diseases that
16 result from the use of tobacco products than young-
17 er age groups.

18 (b) PURPOSE.—The purpose of this Act is to insure
19 the long-term viability of the medicare, medicaid, and
20 other federal health programs by establishing a dedicated
21 trust fund to reimburse the government for the health care
22 costs of individuals with diseases attributable to the use
23 of tobacco products.

1 **SEC. 3. TOBACCO PRODUCT MANUFACTURERS CONTRIBU-**
2 **TION TO HEALTH CARE COST REIMBURSE-**
3 **MENT TRUST FUND.**

4 (a) IN GENERAL.—The Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 subtitle:

7 **“Subtitle K—Tobacco Product Man-**
8 **ufacturers Contribution to**
9 **Health Care Cost Reimburse-**
10 **ment Trust Fund.**

“CHAPTER 100. Tobacco Product Manufacturers Contribution to
Health Care Cost Reimbursement Trust Fund.

11 **“CHAPTER 100—TOBACCO PRODUCT MAN-**
12 **UFACTURERS CONTRIBUTION TO**
13 **HEALTH CARE COST REIMBURSEMENT**
14 **TRUST FUND.**

“Sec. 9801. Establishment of Tobacco Product Health Care Cost
Reimbursement Trust Fund.

“Sec. 9802. Contributions to Trust Fund.

15 **“SEC. 9801. ESTABLISHMENT OF TOBACCO PRODUCT**
16 **HEALTH CARE COST REIMBURSEMENT**
17 **TRUST FUND.**

18 “(a) CREATION OF TRUST FUND.—There is estab-
19 lished in the Treasury of the United States a trust fund
20 to be known as the ‘Tobacco Product Health Care Cost
21 Reimbursement Trust Fund’ (hereafter referred to in this
22 chapter as the ‘Trust Fund’), consisting of such amounts

1 as may be appropriated or transferred to the Trust Fund
 2 as provided in this section or section 9602(b).

3 “(b) TRANSFERS TO TRUST FUND.—The Secretary
 4 shall transfer to the Trust Fund an amount equivalent
 5 to contributions received in the Treasury under section
 6 9802.

7 “(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—

8 “(1) IN GENERAL.—The amounts in the Trust
 9 Fund shall be available in each fiscal year (begin-
 10 ning with fiscal year 1997), as provided by appro-
 11 priation Acts, to the Secretary—

12 “(A) to distribute to each particular Sec-
 13 retary responsible for the expenditure of Fed-
 14 eral funds for that fiscal year under title XVIII
 15 or XIX of the Social Security Act or any other
 16 Federal program for the payment of health care
 17 costs of individuals with diseases attributable to
 18 the use of tobacco products, and

19 “(B) to pay all expenses of administration
 20 incurred by the Department of the Treasury in
 21 administering this chapter and the Trust Fund.

22 “(2) DETERMINATION OF DISTRIBUTION.—

23 Each particular Secretary described in paragraph
 24 (1)(A) shall submit to the Secretary of the Treasury
 25 such documentation as the Secretary requires to de-

1 termine the appropriate distribution under para-
2 graph (1)(A).

3 “(3) USE OF DISTRIBUTIONS.—In any case in
4 which an expenditure of Federal funds described in
5 paragraph (1)(A) was made from a trust fund, the
6 distribution under paragraph (1)(A) reimbursing
7 such expenditure shall be made to such trust fund.

8 “(4) STATE MEDICAID EXPENDITURES.—For
9 purposes of this section, the Secretary of Health and
10 Human Services shall include in the Secretary’s sub-
11 mission under paragraph (2) the expenditure of
12 State funds under State plans under title XIX of the
13 Social Security Act for the payment of health care
14 costs of individuals with diseases attributable to the
15 use of tobacco products, and to the extent the dis-
16 tribution to the Secretary under paragraph (1)(A) is
17 attributable to such expenditure, shall reimburse the
18 various States for such expenditures.

19 “(d) ADMINISTRATIVE RULES.—For purposes of this
20 section, the rules of subchapter B of chapter 98 shall
21 apply.

22 “(e) TOBACCO PRODUCTS.—For purposes of this
23 chapter, the term ‘tobacco products’ has the meaning
24 given such term by section 5702(c).

1 **“SEC. 9802. CONTRIBUTIONS TO TRUST FUND.**

2 “(a) ANNUAL PREMIUMS.—Each manufacturer of to-
3 bacco products shall pay to the Trust Fund, an annual
4 contribution equal to the product of the amount deter-
5 mined under subsection (b) for each fiscal year (beginning
6 with fiscal year 1997) and the manufacturer’s market
7 share percentage determined under subsection (c) for the
8 calendar year preceding such fiscal year.

9 “(b) DETERMINATION OF FUNDING LEVELS.—

10 “(1) IN GENERAL.—Not later than the date the
11 President is required to submit the budget of the
12 United States for a fiscal year to Congress, the Di-
13 rector of the Centers for Disease Control and Pre-
14 vention, after consultation with the Directors of the
15 National Institutes of Health, the National Cancer
16 Institute, and the National Heart, Lung, and Blood
17 Institute, shall make an estimate of—

18 “(A) the amount of Federal expenditures
19 for that fiscal year under titles XVIII and XIX
20 of the Social Security Act and other Federal
21 programs, and

22 “(B) the amount of State expenditures for
23 that fiscal year under State plans under title
24 XIX of the Social Security Act,
25 for payment of health care costs of individuals with
26 diseases attributable to the use of tobacco products.

1 “(2) DISCLOSURE OF ESTIMATE METHODOLOGY.—The Director of the Centers for Disease Control and Prevention shall publish in the Federal Register all relevant documentation considered and the methodology used in making the estimate described in paragraph (1).

7 “(3) REPORT IN BUDGET.—The President shall include the estimate described in paragraph (1) in the budget for the fiscal year.

10 “(c) MARKET SHARE PERCENTAGE.—

11 “(1) IN GENERAL.—Not later than July 1, the Secretary shall determine and publish the market share percentage for the preceding calendar year for each manufacturer of tobacco products by determining such manufacturer’s percentage share of the total amount of tobacco products sold in the United States during such calendar year.

18 “(2) INFORMATION.—Not later than April 1, each manufacturer of tobacco products shall furnish to the Secretary such information as the Secretary may require to determine any market share percentage under this subsection for the preceding calendar year.

24 “(d) PAYMENT OF CONTRIBUTIONS.—The annual contribution under subsection (a) for any fiscal year shall



1 be payable in 12 monthly installments, due on the twenty-
2 fifth day of each calendar month in the fiscal year.

3 “(e) ENFORCEMENT.—For penalties and other gen-
4 eral and administrative provisions applicable to this sec-
5 tion, see subtitle F.

6 “(f) MANUFACTURER OF TOBACCO PRODUCTS.—For
7 purposes of this section, the term ‘manufacturer of to-
8 bacco products’ has the meaning given such term by sec-
9 tion 5702(d).”

10 (b) EFFECTIVE DATE.—The amendments made by
11 this section shall take effect on the date of the enactment
12 of this Act.

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